

IN THE TENNESSEE PUBLIC SERVICE COMMISSION.
NASHVILLE, TENNESSEE

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IN RE: IN RE: PETITION OF)
AT&T, MCI, SPRINT AND)
WORLDCOM d/b/a WILTEL) DOCKET NO. 98-00097
NETWORK SERVICES FOR THE)
COMMENCEMENT OF A RULEMAKING)
PROCEEDING TO PROVIDE FOR)
THE TERMINATION OF PRICE CAP)
REGULATION FOR INTEREXCHANGE)
CARRIERS AND TO AMEND RULE)
1220-4-2-.55(2).)

COMMENTS OF THE CONSUMER ADVOCATED DIVISION OF THE OFFICE OF
THE ATTORNEY GENERAL AND REPORTER FOR THE STATE OF TENNESSEE

The Consumer Advocate Division of the Office of the Attorney General and Reporter for the State of Tennessee submits these comments concerning the Commission's proposed rulemaking proceeding for interexchange carriers.

While competition in the intrastate interLATA exchange market has developed well beyond that for local exchange service, the present level of competition is not sufficient in all segments of the market to protect the consumers. An example of how the impact of competition varies from one segment of the market to another is AT&T's recent plan that effectively

increased the rates of low volume customers by implementing a minimum bill requirement. The increase for these customers occurred while the company was actively promoting reductions for other customers. If competition across the various market segments were uniform, the company could not single out one segment for such a rate increase.

The Consumer Advocate Division agrees with the Authority that as a result of the difference in the market segments, it is necessary for the Authority to continue to insure that as carriers are provided more flexibility in establishing rates for their service offering the vulnerable customers are protected. Thus, the Authority's proposal to divide the interexchange carriers services into the two categories, "Residential" and "All Other" as an initial regulatory protection is appropriate. While the Consumer Advocate Division is concerned that the use of the net revenue per minute as the single gauge to insure that residential customers are protected may be insufficient, this approach provides both flexibility for the carriers and a degree of protection for the residential consumers. If the current rule is adopted, the Consumer Advocate Division urges the Authority to continue to track the activity of the carriers and if necessary take corrective action to insure that the most vulnerable customers are not adversely affected.

The proposal is also consistent with the general underlying principles of Tenn. Code Ann. § 65-5-208 and § 65-5-209 as adopted by the Tennessee Legislature. In adopting Tenn. Code Ann. § 65-5-208 and § 65-5-209 the Legislature: 1) recognized that competition is not as effective in regulating some services as for others and therefore for regulatory purposes classified local exchange services as either basic or nonbasic (with basic receiving closer regulation); and 2) elected to regulate the rates for services within the two categories "baskets" on an aggregate basis rather than on a service-by-service basis.

While Tenn. Code Ann. §65-5-208 and §65-5-209 are not directly applicable to interexchange service, it is appropriate for the Authority to consider the underlying principles of these statutes. The Authority's proposal as published in this docket is consistent with those underlying principles. Similar to the rationale of §65-5-208, the Authority has recognized that competition in the residential service segment of the interLATA market is not the same as that for the business segment. The Consumer Advocate Division agrees.

The Consumer Advocate Division also agrees with the Authority's definition of Residential Services:

1220-4-2-.55(2)d 1.

- (i.) The Residential Services category shall include all services for which the majority of customers are classified as residential customers by the local exchange carrier for application of local service rates.
- (ii) Any new service that is not classified as "residential" shall be placed in the All Other Services category.

This definition does not require any arbitrary classification but is based on the classification of those customers who actually use the services. If the majority of the customers purchasing the services are residential, the service is residential. If not, the service is included in the All Other category and is not subject to the net revenue cap. This eliminates some of the problems encountered in the local exchange market with attempting to match technical aspects of services to the definition incorporated into the statute. This definition is also structured so that the service will change category as usage changes. The Consumer Advocate Division agrees with this approach.

Also consistent with underlying principles of Tenn. Code Ann. §65-5-209, the Authority has elected to measure changes in rates in the residential basket on an aggregate basis using average net revenue per minute as the gauge rather than measure

rate changes on a service-by-service basis. This approach will tend to protect the residential customers while allowing the carriers to redesign the rate structure for the services offered to residential customers. However, since this approach will allow the interexchange carriers to increase rates for any service within the "Residential" service category if offsetting reductions are made to other "Residential" service, the Consumer Advocate Division is concerned that residential customers who use a low volume of interexchange service may not be adequately protected. The Division does not, however, propose any changes at this time, but recommends that the Authority continue to monitor the interexchange carriers rate changes and to take action if it is determined that any group of customers is being adversely affected.

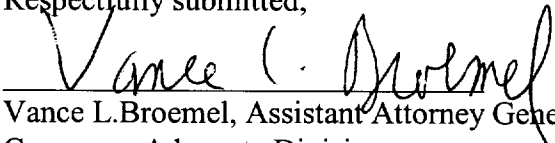
The Consumer Advocate Division also agrees with the proposal to use net revenue per minute instead of revenue per minute to measure the impact of rate changes. This insures that residential customers receive the benefits of access charge reductions by the local exchange carriers.

Although it is not presently a problem, and may not be a problem for some time, the Division is concerned with how average access per minute will be computed where an interexchange carrier is also providing local service. If an interexchange carrier is

purchasing access from a local exchange carrier such as BellSouth, the access will be priced at tariffed rates approved by the Authority. If the interexchange carrier provides a customer both local and interexchange service, such tariffs would not necessarily apply. The Consumer Advocate Division recommends that the Authority address the computation of the average access charge per minute where the carrier provides both local and exchange service.

This 15th day of September, 1999.

Respectfully submitted,


Vance L. Broemel, Assistant Attorney General
Consumer Advocate Division
Attorney General's Office
425 5th Ave. North
Nashville, TN 37243